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9 17961 Sky Park Circle, Suite 38-E
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10 Telephone: 949.725-8525
Facsimile: 949.955.2415

11 Attorneys for Plaintiff
12 JAMES R. GLIDEWELL DENTAL CERAMICS,
INC. DBA GLIDEWELL LABORATORIES

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15

16 JAMES R. GLIDEWELL DENTAL
CERAMICS, INC. DBA
17 GLIDEWELL LABORATORIES, a
California corporation,
18 Plaintiff,
19 v.
20 KEATING DENTAL ARTS, INC., a
California corporation,
21 Defendant.

22 KEATING DENTAL ARTS, INC., a
California corporation,
23 Counter-Plaintiff,

24 v.

25 JAMES R. GLIDEWELL DENTAL
CERAMICS, INC., DBA
26 GLIDEWELL LABORATORIES, a
California corporation, and DOES 1
27 THROUGH 5, inclusive,
28 Counter-Defendant.

Case No. SACV11-01309-DOC(ANx)

Hon. David O. Carter

**Declaration of Phillip J. Graves in
Support of Ex Parte Application to
Continue Scheduling Order
Deadlines and Dates**

Complaint Filed: August 30, 2011

1 I, Phillip J. Graves, declare as follows:

2 1. I am attorney licensed to practice law in the United States District
3 Court, Central District of California. I am an attorney with the law firm of Snell &
4 Wilmer L.L.P., and one of the attorneys of record for Plaintiff and Counter-
5 Defendant James R. Glidewell Dental Ceramics, Inc. ("Glidewell").

6 2. Late in the afternoon on October 25, 2012, Snell & Wilmer L.L.P. was
7 engaged as counsel for Glidewell.

8 3. On the morning of October 26, 2012, and again in the afternoon, I and
9 my colleague Greer Shaw called Glidewell's prior trial counsel, Leonard Tachner.
10 Among other things, we requested that Mr. Tachner provide us with all discovery
11 materials in the case as quickly as possible. Mr. Tachner indicated to us that it
12 would be difficult, or possibly not feasible, for him to gather and forward the
13 materials to us prior to the weekend, so we sent an associate to this office to attempt
14 to gather the discovery materials and other materials in the case file.

15 4. As a result of this effort, we obtained some, but not all, of the
16 discovery materials in the case on Friday evening.

17 5. We began reviewing the case file on Friday evening, and worked
18 through the weekend. Our review of discovery materials in this case is ongoing,
19 and we are continuing to work with Mr. Tachner to obtain the entirety of the file.

20 6. Keating has served three amended initial disclosures since August 23,
21 2012. On or about August 23, 2012, Keating served an Amended Initial
22 Disclosures on Mr. Tachner. Attached hereto as Exhibit "A" is a true and correct
23 copy of the Amended Initial Disclosures.

24 7. On or about September 27, 2012, Keating served a Second Amended
25 Initial Disclosures on Mr. Tachner. In the Second Amended Initial Disclosures,
26 Keating added an additional topic of testimony ("use of bruxer crown") for 13
27 previously-identified witnesses, and added 11 new fact witnesses on a variety of
28

1 topics. Attached hereto as Exhibit "B" is a true and correct copy of the Second
2 Amended Initial Disclosures.

3 8. On or about October 19, 2012, i.e., just 10 days before the discovery
4 cut-off date, Keating served a Third Amended Initial Disclosures on Mr. Tachner.
5 In the Third Amended Initial Disclosures, Keating added 2 new additional
6 witnesses and two new, broadly phrased categories of documents. Attached hereto
7 as Exhibit "C" is a true and correct copy of the Second Amended Initial
8 Disclosures.

9 9. On October 29, 2012, I called Lynda Zadra-Symes, Keating's lead
10 counsel, and informed her that we intended to file an *ex parte* application by the
11 end of the day today requesting that the Court continue the deadlines and dates in
12 the Court's Scheduling Order by approximately two months, and explained the
13 grounds for the application. Ms. Zadra-Symes informed me that Keating intends to
14 oppose this *ex parte* application.

15 I declare under the penalty of perjury under the laws of the United States of
16 America that the foregoing is true and correct.

17 Executed on October 29, 2012 in Los Angeles, California.

18
19 /s/ Philip J. Graves

20 Philip J. Graves
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Exhibit A

1 Lynda J. Zadra-Symes (SBN 156,511)
 2 Lynda.Zadra-Symes@kmob.com
 3 Jeffrey L. Van Hoosear(SBN : 147,751)
 4 Jeffrey.VanHoosear@kmob.com
 5 KNOBBE, MARTENS, OLSON & BEAR, LLP
 2040 Main Street, Fourteenth Floor
 Irvine, CA 92614
 Phone: (949) 760-0404
 Facsimile: (949) 760-9502

6 Attorneys for Defendant/Counter-Plaintiff,
 7 Keating Dental Arts, Inc.

8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 10 SOUTHERN DIVISION

11 JAMES R. GLIDEWELL DENTAL
 12 CERAMICS, INC. dba
 13 GLIDEWELL LABORATORIES,

14 Plaintiff/Counter-defendant,
 v.

15 KEATING DENTAL ARTS, INC.

16 Defendant/Counter-Plaintiff.
 17

Civil Action No.
 SACV11-01309-DOC(ANx)

**AMENDED INITIAL
 DISCLOSURES PURSUANT TO
 FEDERAL RULE OF CIVIL
 PROCEDURE 26(a)(1) AND L.R.
 26-1**

Honorable David O. Carter, USDJ
 Honorable Arthur Nakazato, USMJ

Pursuant to Federal Rule of Civil Procedure 26(a)(I), without waiving any claim of privilege, work produced or other basis for non-disclosure, Defendant Keating Dental Arts, Inc. ("Keating"), hereby provides its Amended Initial Disclosures.

(i) The name and, if known, the address and telephone number of each individual likely to have discoverable information - along with the subjects of that information - that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; information:

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Shaun Keating	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
Bob Brandon	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
Daxton Grubb daxton@rdentlab.com	R-Dent Dental Laboratories 6590 Summer Knoll Cove Bartlett, TN 38134 www.rdentlab.com 372-8020	Glidewell demands to stop using R BRUX Trademark, and related facts
Robert P. Marbach seivices@authenticlab.com	Authentic Dental Lab 1950 Bandera Rd. San Antonio, TX 78228 www.authenticlab.com 735-1433	Glidewell demands to stop using "BRUX" crowns on Authentic's website, and related facts
Rick Everson reverson@dentalservices.net	Sentage Corporation 5775 Wayzata Blvd. Suite 890 Minneapolis, MN 55416 www.dentalservices.net 345-6300	BRUX-EZE Trademark and related facts

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Robin A. Carden	Glidewell Laboratories 4141 MacArthur Blvd Newport Beach, CA 92660 (800) 854-7256	Use of "bruxer" and "zirconia" as generic terms.
Dr. William Belton	403 Vonderburg Dr. Suite 201 Brandon, FL 33511 (813) 689-5098	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. David Bonner	101 Binkley PO Box 592 Dumas, TX 79029 (806) 935-6811	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Jonathan Campbell	Legacy Dental 1345 E. 3900 South Suite 116 Salt Lake City, UT 84124 (801) 278-4223	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Joseph Jacquinot	Platteville Dental 1270 N. Water St. Platteville, WI 53818 (608) 348-2393	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Dennis Murphy	310 Terrace Ave. Suite #102 Cincinnati, OH 45220 (513) 221-1550	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Terry L. Myers	109 Apple Valley Parkway Belton, MO 64012 (816) 331-4200	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Dr. Samir Rana	60 Beaverbrook Rd. Lincoln Park, NJ 07035 (973) 633-5666	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Michael Razzano	12910 Hwy 92 #107 Woodstock, GA 30188 (770) 592-2600	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Stan Richardson	780 Nissan Dr. Smyrna, TN 37167 (615) 355-1062	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Trevor Scheff	6300 Limestone Rd. Suite D Hockessin, DE 19707 (302) 239-7277	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Scott Stephens	2538 E Joyce Blvd. Fayetteville, AR 72703 (479) 442-3915	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Robert T. Wooton	3000 N Interstate 35 Austin, TX 78705 (512) 472-2246	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Dr. Tony D. Wu	155 E. 38th Suite 2D New York, NY 10016 (212) 682-0888	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown.
Expert witnesses to be identified		

(ii) A copy - or a description by category and location - of all documents, electronically stored information ("ESI"), and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment:

Disclosure: Pursuant to appropriate terms of the Confidentiality Order, Keating will make available for inspection and copying responsive documents, ESI, and tangible things as indicated below. Defendant notes that Defendant already has identified to Plaintiff at least certain of the items listed. Also subject to an appropriate Protective Order and further review, Defendants may produce or make available under Federal Rule of Civil Procedure 34 additional documents/evidence, as those may come to the attention of Defendant.

Description, etc.
The trademarks and related information disclosed in the attachment to an email dated November 16, 2011 to Plaintiff's counsel Mr. Tachner, from Defendant's counsel.
Correspondence from Glidewell to third parties regarding the use by those third parties of the term BRUX or BRUX-related words.
Defendant's order forms and related records, as provided to and as received from dentists.
Defendant's sales records relating the products sold under Defendant's trademark KDZ BRUXER AND DESIGN.
Scholarly articles using the terms "zirconia" or "bruxer", "brux", "bruxism", or other related terms with a root of "brux."
Patents and patent applications using the terms "zirconia" or "bruxer", "brux", "bruxism", or other terms with a root of "brux."
Advertisements from Glidewell Laboratories showing use of "bruxzir" to indicate the product itself and not as a brand name. Copies of material from Glidewell's websites www.glidewelldental.com , www.bruxzir.com as well as other advertisements by Glidewell.
Defendant's and third party advertisements that show use of the term "bruxer," "brux," or other related words to refer generically to a bruxer crown product.

(iii) A computation of each category of damages claimed by the disclosing party ~ who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or

1 protected from disclosure, on which each computation is based, including
 2 materials bearing on the nature and extent of injuries suffered.

3
 4 **Disclosure:** Defendant and Counterclaim-Plaintiff has not
 5 calculated its damages at this time, and is not in possession of the
 6 information necessary to do so. Among other things, Defendant and
 7 Counter-Defendant anticipates (1) possibly hiring an expert to do so, and
 8 (2) forwarding that expert's report in compliance with all applicable Rules
 9 and Orders.

10 In any case, such damages are likely to be based at least in part on
 11 obtaining an award from the Court of misuse of trademark and/or other
 12 bad faith violations by Plaintiff, the amount and nature of Plaintiff's
 13 unlawful activities in improperly restricting lawful competition, the extent
 14 to which remedial communications and advertising may be necessary to
 15 attempt to redress same, and other factors. Those issues and activities
 16 appear to be continuing and therefore the subject of ongoing discovery.

17 Among other things, the damages are likely to include calculations
 18 of Plaintiff's profits and/or Defendant's lost profits. In addition, Defendant
 19 reserves the right to appropriately designate with appropriate terms of
 20 confidentiality under the Confidentiality Order any and/or all such
 21 disclosures. Notwithstanding the foregoing, for the convenience of the
 22 parties and the Court, Defendant identifies at least the following
 23 categories of damages it expects will be included in the foregoing
 24 disclosures.

Category of Damages
Attorney fees and costs
Punitive damages
Lost sales
Interference with existing/prospective business relationships
Damages to business reputation
Employee time
Out-of-pocket expenses
Other

25 (iv) For inspection and copying as under Rule 34, any insurance
 26 agreement under which an insurance business may be liable to satisfy all or part
 27 of a possible judgment in the action or to indemnify or reimburse for payments
 28 made to satisfy the judgment.

Exhibit A, Page 11

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PROOF OF SERVICE

I am a citizen of the United States of America and I am employed in Irvine, California. I am over the age of 18 and not a party to the within action. My business address is 2040 Main Street, Fourteenth Floor, Irvine, California. On August 23, 2012, I caused the within **AMENDED INITIAL DISCLOSURES PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1) AND L.R. 26-1** to be served on the parties or their counsel shown below, by placing it in a sealed envelope addressed as follows:

VIA Email and First Class Mail

Leonard Tachner, Esq.
LEONARD TACHNER, A Professional Law Corp.
17961 Sky Park Circle, Suite 38-E
Irvine, CA 92614-6364
Email: ltachner@aol.com

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 23, 2012 at Irvine, California.



Peter Toller

Exhibit B

1 Lynda J. Zadra-Symes (SBN 156,511)
Lynda.Zadra-Symes@kmob.com
2 Jeffrey L. Van Hoosear (SBN : 147,751)
Jeffrey.VanHoosear@kmob.com
3 David G. Jankowski (SBN 205,634)
David.jankowski@kmob.com
4 KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, Fourteenth Floor
5 Irvine, CA 92614
Phone: (949) 760-0404
6 Facsimile: (949) 760-9502

7 Attorneys for Defendant/Counter-Plaintiff,
Keating Dental Arts, Inc.
8

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12	JAMES R. GLIDEWELL DENTAL)	Civil Action No.
13	CERAMICS, INC. dba)	SACV11-01309-DOC(ANx)
14	GLIDEWELL LABORATORIES,)	
15	Plaintiff/Counter-defendant,)	SECOND AMENDED
16	v.)	DISCLOSURES OF KEATING
17	KEATING DENTAL ARTS, INC.)	DENTAL ARTS, INC. PURSUANT
18	Defendant/Counter-Plaintiff.)	TO FEDERAL RULE OF CIVIL
19)	PROCEDURE 26(a)(1)
20)	Honorable David O. Carter
21)	
22)	
23)	
24)	
25)	
26)	
27)	
28)	

Pursuant to Federal Rule of Civil Procedure 26(a)(1), without waiving any claim of privilege, work produced or other basis for non-disclosure, Defendant Keating Dental Arts, Inc. ("Keating"), hereby provides the following Second Amended Disclosures.

(i) The name and, if known, the address and telephone number of each individual likely to have discoverable information - along with the subjects of that information - that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; information:

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Shaun Keating	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
Bob Brandon	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
Daxton Grubb daxton@rdentlab.com	R-Dent Dental Laboratories 6590 Summer Knoll Cove Bartlett, TN 38134 www.rdentlab.com 372-8020	Glidewell demands to stop using R BRUX Trademark, and related facts
Robert P. Marbach seivices@authenticlab.com	Authentic Dental Lab 1950 Bandera Rd. San Antonio, TX 78228 www.authenticlab.com 735-1433	Glidewell demands to stop using "BRUX" crowns on Authentic's website, and related facts
Rick Everson reverson@dentalservices.net	Sentage Corporation 5775 Wayzata Blvd. Suite 890 Minneapolis, MN 55416 www.dentalservices.net 345-6300	BRUX-EZE Trademark and related facts
Robin A. Carden	Glidewell Laboratories 4141 MacArthur Blvd Newport Beach, CA 92660 (800) 854-7256	Use of "bruxer" and "zirconia" as generic terms.

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
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Dr. Michael Razzano	12910 Hwy 92 #107 Woodstock, GA 30188 (770) 592-2600	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
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Dr. Robert T. Wooton	3000 N Interstate 35 Austin, TX 78705 (512) 472-2246	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

1	Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
2	Dr. Tony D. Wu	155 E. 38th Suite 2D New York, NY 10016 (212) 682-0888	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
3	Dr. Gary P. Tobin	16055 Ventura Blvd Suite 1035 Encino, CA 91436 (818) 990-5240	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
4	Dr. Jenny Harris	2504 Lake Austin Blvd Austin, TX 78703 (512) 474-5233	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
5	Dr. Joseph Ting	3461 US Highway 22 East Branchburg, NJ 08876 (908) 203-1998	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
6	Dr. Raymond Brady	2700 Bellflower Blvd. Suite 306 Long Beach, CA 90815 (562) 420-1301	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
7	Dr. Michael Colleran	1250 Peach Street San Luis Obispo, CA 93401 (805) 543-0814	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Dr. Richard Scott	215 N. State College Blvd. Suite E Anaheim, CA 92806 (714) 635-0892	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Daniel Sweet	1990 Shaw Avenue Suite C Clovis, CA 93611 (559) 298-2575	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. George Tashiro	558 E. Wardlow Rd. Long Beach, CA 90807 (562) 427-1221	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Thomas Nussear	40 S. Main St. Smithburg, MD 21783 (301) 824-2080	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Carol Frattura	22286 Vick Street Port Charlotte, FL 33980 (888) 625-5757	Glidewell demands to stop using Zir-Bruxer Crown mark and related facts. Use of "bruxer" and similar words by dentists when ordering all zirconia crowns.
Dr. David Eggleston	1441 Avocado Ave Suite 508 Newport Beach, CA 92660 (949) 640-5680	Expert testimony regarding use of term "bruxer" and related terms in the dental industry.
Expert witnesses to be identified		

(ii) A copy - or a description by category and location - of all documents, electronically stored information ("ESI"), and tangible things that the disclosing

1 party has in its possession, custody, or control and may use to support its claims
 2 or defenses, unless the use would be solely for impeachment:

3
 4 ***Disclosure:*** Pursuant to appropriate terms of the Confidentiality
 5 Order, Keating will make available for inspection and copying responsive
 6 documents, ESI, and tangible things as indicated below. Defendant notes
 7 that Defendant already has identified to Plaintiff at least certain of the
 8 items listed. Also subject to an appropriate Protective Order and further
 9 review, Defendants may produce or make available under Federal Rule of
 10 Civil Procedure 34 additional documents/evidence, as those may come to
 11 the attention of Defendant.

Description, etc.
The trademarks and related information disclosed in the attachment to an email dated November 16, 2011 to Plaintiff's counsel Mr. Tachner, from Defendant's counsel.
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Defendant's order forms and related records, as provided to and as received from dentists.
Defendant's sales records relating the products sold under Defendant's trademark KDZ BRUXER AND DESIGN.
Scholarly articles using the terms "zirconia" or "bruxer", "brux", "bruxism", or other related terms with a root of "brux."
Patents and patent applications using the terms "zirconia" or "bruxer", "brux", "bruxism", or other terms with a root of "brux."
Advertisements from Glidewell Laboratories showing use of "bruxzir" to indicate the product itself and not as a brand name. Copies of material from Glidewell's websites www.glidewell dental.com , www.bru xzir.com as well as other advertisements by Glidewell.
Defendant's and third party advertisements that show use of the term "bruxer," "brux," or other related words to refer generically to a bruxer crown product.

23
 24 (iii) A computation of each category of damages claimed by the
 25 disclosing party ~ who must also make available for inspection and copying as
 26 under Rule 34 the documents or other evidentiary material, unless privileged or
 27 protected from disclosure, on which each computation is based, including
 28 materials bearing on the nature and extent of injuries suffered.

1 **Disclosure:** Defendant and Counterclaim-Plaintiff has not
 2 calculated its damages at this time, and is not in possession of the
 3 information necessary to do so. Among other things, Defendant and
 4 Counter-Defendant anticipates (1) possibly hiring an expert to do so, and
 5 (2) forwarding that expert's report in compliance with all applicable Rules
 6 and Orders.

7 In any case, such damages are likely to be based at least in part on
 8 obtaining an award from the Court of misuse of trademark and/or other
 9 bad faith violations by Plaintiff, the amount and nature of Plaintiff's
 10 unlawful activities in improperly restricting lawful competition, the extent
 11 to which remedial communications and advertising may be necessary to
 12 attempt to redress same, and other factors. Those issues and activities
 13 appear to be continuing and therefore the subject of ongoing discovery.

14 Among other things, the damages are likely to include calculations
 15 of Plaintiff's profits and/or Defendant's lost profits. In addition, Defendant
 16 reserves the right to appropriately designate with appropriate terms of
 17 confidentiality under the Confidentiality Order any and/or all such
 18 disclosures. Notwithstanding the foregoing, for the convenience of the
 19 parties and the Court, Defendant identifies at least the following
 20 categories of damages it expects will be included in the foregoing
 21 disclosures.

Category of Damages
Attorney fees and costs
Punitive damages
Lost sales
Interference with existing/prospective business relationships
Damages to business reputation
Employee time
Out-of-pocket expenses
Other

22 (iv) For inspection and copying as under Rule 34, any insurance
 23 agreement under which an insurance business may be liable to satisfy all or part
 24 of a possible judgment in the action or to indemnify or reimburse for payments
 25 made to satisfy the judgment.

26 **Disclosure:** Pursuant to appropriate terms of confidentiality under
 27 the Confidentiality Order, Keating will make available for inspection and
 28 copying the following insurance policy:

PROOF OF SERVICE

I am a citizen of the United States of America and I am employed in Irvine, California. I am over the age of 18 and not a party to the within action. My business address is 2040 Main Street, Fourteenth Floor, Irvine, California. I am readily familiar with the firm's business practices for the collection and processing of correspondence for mailing, and that mail so processed will be deposited the same day during the ordinary course of business.

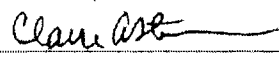
On September 27, 2012, I caused the within SECOND AMENDED DISCLOSURES OF KEATING DENTAL ARTS, INC. PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1) to be served on the parties or their counsel shown below, by placing it in a sealed envelope addressed as follows:

Via Electronic and First Class Mail:

Leonard Tachner, Esq.
LEONARD TACHNER, A Professional Law Corp.
17961 Sky Park Circle, Suite 38-E
Irvine, CA 92614-6364
Email: ltachner@aol.com

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 27, 2012 at Irvine, California.



Claire A. Stoneman

Exhibit C

1 Lynda J. Zadra-Symes (SBN 156,511)
Lynda.Zadra-Symes@kmob.com
2 Jeffrey L. Van Hoosear(SBN : 147,751)
Jeffrey.VanHoosear@kmob.com
3 David G. Jankowski (SBN 205,634)
David.iankowski@kmob.com
4 KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, Fourteenth Floor
5 Irvine, CA 92614
Phone: (949) 760-0404
6 Facsimile: (949) 760-9502

7 Attorneys for Defendant/Counter-Plaintiff,
Keating Dental Arts, Inc.
8

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 JAMES R. GLIDEWELL DENTAL
13 CERAMICS, INC. dba
GLIDEWELL LABORATORIES,

14 Plaintiff/Counter-defendant,
15 v.

16 KEATING DENTAL ARTS, INC.

17 Defendant/Counter-Plaintiff.
18

Civil Action No.
SACV11-01309-DOC(ANx)

**KEATING DENTAL ARTS, INC.'S
THIRD AMENDED INITIAL
DISCLOSURES PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 26(a)(1)**

Honorable David O. Carter
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Pursuant to Federal Rule of Civil Procedure 26(a)(1), without waiving any claim of privilege, work produced or other basis for non-disclosure, Defendant Keating Dental Arts, Inc. ("Keating"), hereby provides its Third Amended Initial Disclosures.

(i) The name and, if known, the address and telephone number of each individual likely to have discoverable information - along with the subjects of that information - that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment; information:

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Shaun Keating	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
Bob Brandon	16881 Hale Ave. Irvine, CA 92606 (800) 433-9833	Use of generic term "bruxer," lack of confusion, and related facts
Daxton Grubb daxton@rdentlab.com	R-Dent Dental Laboratories 6590 Summer Knoll Cove Bartlett, TN 38134 www.rdentlab.com 372-8020	Glidewell demands to stop using R BRUX Trademark, and related facts
Robert P. Marbach sevice@authenticlab.com	Authentic Dental Lab 1950 Bandera Rd. San Antonio, TX 78228 www.authenticlab.com 735-1433	Glidewell demands to stop using "BRUX" crowns on Authentic's website, and related facts
Rick Everson reverson@dentalservices.net	Sentage Corporation 5775 Wayzata Blvd. Suite 890 Minneapolis, MN 55416 www.dentalservices.net 345-6300	BRUX-EZE Trademark and related facts
Robin A. Carden	Glidewell Laboratories 4141 MacArthur Blvd Newport Beach, CA 92660 (800) 854-7256	Use of "bruxer" and "zirconia" as generic terms.

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Dr. William Belton	403 Vonderburg Dr. Suite 201 Brandon, FL 33511 (813) 689-5098	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. David Bonner	101 Binkley PO Box 592 Dumas, TX 79029 (806) 935-6811	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Jonathan Campbell	Legacy Dental 1345 E. 3900 South Suite 116 Salt Lake City, UT 84124 (801) 278-4223	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Joseph Jacquinot	Platteville Dental 1270 N. Water St. Platteville, WI 53818 (608) 348-2393	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Dennis Murphy	310 Terrace Ave. Suite #102 Cincinnati, OH 45220 (513) 221-1550	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Terry L. Myers	109 Apple Valley Parkway Belton, MO 64012 (816) 331-4200	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Dr. Samir Rana	60 Beaverbrook Rd. Lincoln Park, NJ 07035 (973) 633-5666	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Michael Razzano	12910 Hwy 92 #107 Woodstock, GA 30188 (770) 592-2600	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Stan Richardson	780 Nissan Dr. Smyrna, TN 37167 (615) 355-1062	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Trevor Scheff	6300 Limestone Rd. Suite D Hockessin, DE 19707 (302) 239-7277	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Scott Stephens	2538 E Joyce Blvd. Fayetteville, AR 72703 (479) 442-3915	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Robert T. Wooton	3000 N Interstate 35 Austin, TX 78705 (512) 472-2246	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.

1	Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
2			
3	Dr. Tony D. Wu	155 E. 38th Suite 2D New York, NY 10016 (212) 682-0888	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
4			
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6			
7	Dr. Gary P. Tobin	16055 Ventura Blvd Suite 1035 Encino, CA 91436 (818) 990-5240	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
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11	Dr. Jenny Harris	2504 Lake Austin Blvd Austin, TX 78703 (512) 474-5233	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
12			
13			
14			
15	Dr. Joseph Ting	3461 US Highway 22 East Branchburg, NJ 08876 (908) 203-1998	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
16			
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19	Dr. Raymond Brady	2700 Bellflower Blvd. Suite 306 Long Beach, CA 90815 (562) 420-1301	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
20			
21			
22			
23	Dr. Michael Colleran	1250 Peach Street San Luis Obispo, CA 93401 (805) 543-0814	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
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Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Dr. Richard Scott	215 N. State College Blvd. Suite E Anaheim, CA 92806 (714) 635-0892	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Daniel Sweet	1990 Shaw Avenue Suite C Clovis, CA 93611 (559) 298-2575	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. George Tashiro	558 E. Wardlow Rd. Long Beach, CA 90807 (562) 427-1221	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Dr. Thomas Nussear	40 S. Main St. Smithburg, MD 21783 (301) 824-2080	Absence of confusion between marks Bruxzir and KDZ Bruxer. "Bruxzir" on Rx form meant to communicate generic term for a bruxer crown. Use of bruxer crown.
Carol Frattura	22286 Vick Street Port Charlotte, FL 33980 (888) 625-5757	Glidewell demands to stop using Zir-Bruxer Crown mark and related facts. Use of "bruxer" and similar words by dentists when ordering all zirconia crowns.
Dr. David Eggleston	1441 Avocado Ave Suite 508 Newport Beach, CA 92660 (949) 640-5680	Expert testimony regarding use of term "bruxer" and related terms in the dental industry.

Witness Email Address	Address/Website/Telephone	Subject of the Likely Discoverable Information
Lori Boatright	Blakely Sokoloff Taylor Zafman LLP 12400 Wilshire Blvd. Seventh Floor Los Angeles, CA 90025 (310) 207-3800	Expert testimony regarding USPTO rules and procedures; the USPTO's examination of the mark BRUXZIR; the validity of the mark BRUXZIR; other rebuttals to the opinions of Prof. Franklyn.
Scott Hudson	Old Dominion Milling Corp. 5700 Old Richmond Ave. Suite G-20 Richmond, VA 23226 (804) 285-0777	Glidewell's enforcement efforts associated with the mark BRUXZIR; language used by the dental industry.

(ii) A copy - or a description by category and location - of all documents, electronically stored information ("ESI"), and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment:

Disclosure: Pursuant to appropriate terms of the Confidentiality Order, Keating will make available for inspection and copying responsive documents, ESI, and tangible things as indicated below. Defendant notes that Defendant already has identified to Plaintiff at least certain of the items listed. Also subject to an appropriate Protective Order and further review, Defendants may produce or make available under Federal Rule of Civil Procedure 34 additional documents/evidence, as those may come to the attention of Defendant.

Description, etc.
The trademarks and related information disclosed in the attachment to an email dated November 16, 2011 to Plaintiff's counsel Mr. Tachner, from Defendant's counsel.
Correspondence from Glidewell to third parties regarding the use by those third parties of the term BRUX or BRUX-related words.
Defendant's order forms and related records, as provided to and as received from dentists.

1	Description, etc.
2	Defendant's sales records relating the products sold under Defendant's
3	trademark KDZ BRUXER AND DESIGN.
4	Scholarly articles using the terms "zirconia" or "bruxer", "brux", "bruxism", or
5	other related terms with a root of "brux."
6	Patents and patent applications using the terms "zirconia" or "bruxer", "brux",
7	"bruxism", or other terms with a root of "brux."
8	Advertisements from Glidewell Laboratories showing use of "bruxzir" to
9	indicate the product itself and not as a brand name. Copies of material from
10	Glidewell's websites www.glidewelldental.com, www.bruzzir.com as well as
11	other advertisements by Glidewell.
12	Advertisements by third parties showing the offering for sale, and sale, of
13	commercially available products for the dental industry using brand names that
14	include "Brux," "Zir," or variations thereon.
15	Advertisements by dental laboratories, including dental laboratories that do
16	business with Glidewell Laboratories, showing the offering for sale, and sale, of
17	full contour zirconia crowns that do not originate from Glidewell.
18	Defendant's and third party advertisements that show use of the term "bruxer,"
19	"brux," or other related words to refer generically to a bruxer crown product.

(iii) A computation of each category of damages claimed by the disclosing party ~ who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

Disclosure: Defendant and Counterclaim-Plaintiff has not calculated its damages at this time, and is not in possession of the information necessary to do so. Among other things, Defendant and Counter-Defendant anticipates (1) possibly hiring an expert to do so, and (2) forwarding that expert's report in compliance with all applicable Rules and Orders.

In any case, such damages are likely to be based at least in part on obtaining an award from the Court of misuse of trademark and/or other

1 bad faith violations by Plaintiff, the amount and nature of Plaintiff's
 2 unlawful activities in improperly restricting lawful competition, the extent
 3 to which remedial communications and advertising may be necessary to
 4 attempt to redress same, and other factors. Those issues and activities
 5 appear to be continuing and therefore the subject of ongoing discovery.

6 Among other things, the damages are likely to include calculations
 7 of Plaintiff's profits and/or Defendant's lost profits. In addition, Defendant
 8 reserves the right to appropriately designate with appropriate terms of
 9 confidentiality under the Confidentiality Order any and/or all such
 10 disclosures. Notwithstanding the foregoing, for the convenience of the
 11 parties and the Court, Defendant identifies at least the following
 12 categories of damages it expects will be included in the foregoing
 13 disclosures.

Category of Damages
Attorney fees and costs
Punitive damages
Lost sales
Interference with existing/prospective business relationships
Damages to business reputation
Employee time
Out-of-pocket expenses
Other

23 (iv) For inspection and copying as under Rule 34, any insurance
 24 agreement under which an insurance business may be liable to satisfy all or part
 25 of a possible judgment in the action or to indemnify or reimburse for payments
 26 made to satisfy the judgment.

27 **Disclosure:** Pursuant to appropriate terms of confidentiality under
 28 the Confidentiality Order, Keating will make available for inspection and
 copying the following insurance policy:

PROOF OF SERVICE

I am a citizen of the United States of America and I am employed in Irvine, California. I am over the age of 18 and not a party to the within action. My business address is 2040 Main Street, Fourteenth Floor, Irvine, California. I am readily familiar with the firm's business practices for the collection and processing of correspondence for mailing, and that mail so processed will be deposited the same day during the ordinary course of business.

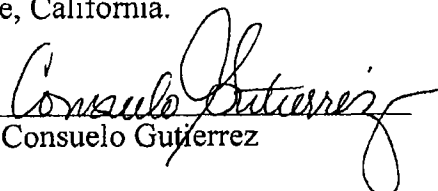
On October 19, 2012, I caused the within THIRD AMENDED DISCLOSURES OF KEATING DENTAL ARTS, INC. PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 26(a)(1) to be served on the parties or their counsel shown below, by placing it in a sealed envelope addressed as follows:

Via Electronic and First Class Mail:

Leonard Tachner, Esq.
LEONARD TACHNER, A Professional Law Corp.
17961 Sky Park Circle, Suite 38-E
Irvine, CA 92614-6364
Email: ltachner@aol.com

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 19, 2012 at Irvine, California.


Consuelo Gutierrez

Glidewell Laboratories v. Keating Dental Arts, Inc.
United States District Court, Central, Case No. SACV11-01309-DOC (ANx)

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2012, I electronically filed the document described as **Declaration of Phillip J. Graves in Support of Ex Parte Application to Continue Scheduling Order Deadlines and Dates** with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

David G. Jankowski
 Jeffrey L. Van Hoosear
 Lynda J Zadra-Symes
 Knobbe Martens Olson and Bear LLP
 2040 Main Street, 14th Floor
 Irvine, CA 92614

**Attorneys for Defendant Keating
 Dental Arts, Inc.**

Tel: (949) 760-0404
 Fax: (949) 760-9502

Email:

Jeffrey.vanhoosear@kmob.com

David.jankowski@kmob.com

Lynda.zadra-symes@kmob.com

litigation@kmob.com

Dated: October 29, 2012

SNELL & WILMER L.L.P.

By: s/Phillip Graves

Phillip Graves
 Greer Shaw
 Christopher B. Pinzon
 Colin R. Higgins

Attorneys for Plaintiff
 James R. Glidewell Dental Ceramics, Inc.
 dba GLIDEWELL LABORATORIES